

House File 418 - Introduced

HOUSE FILE 418

BY STAED

A BILL FOR

1 An Act relating to radon control and testing and making
2 penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.8D Residential construction
2 requirements and standards for radon control.

3 The state building code commissioner shall adopt as a part of
4 the state building code construction requirements and standards
5 for radon control in new residential construction. The
6 requirements and standards adopted by the commissioner shall
7 be based upon the radon control method requirements of the
8 international residential code published by the international
9 code council, 2009 edition, appendix F. Notwithstanding
10 any other provision of this chapter to the contrary, the
11 construction requirements and standards for radon control
12 adopted by the commissioner and approved by the council shall
13 apply to new residential construction commenced on or after
14 January 1, 2017, and shall supersede and replace any minimum
15 requirements and standards for radon control in new residential
16 construction adopted or enacted by a governmental subdivision
17 prior to that date. The state building code commissioner may
18 provide training to builders, contractors, and other interested
19 persons on the construction requirements and standards for
20 radon control in residential construction. A builder of a
21 residence for resale shall install a passive radon mitigation
22 system in the residence and shall notify the buyer of the
23 residence that radon testing can be obtained for the residence.
24 A builder of a residence for resale shall not represent to the
25 buyer of the residence that a passive radon mitigation system
26 will remediate the presence of radon.

27 Sec. 2. Section 103A.10, Code 2015, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 6. Notwithstanding any other provision of
30 this chapter to the contrary, the construction requirements and
31 standards for radon control in new residential construction
32 adopted by the commissioner and approved by the council shall
33 apply to all new residential construction commenced on or after
34 January 1, 2017, and shall supersede and replace any minimum
35 requirements or standards for radon control in new residential

1 construction adopted or enacted by the governmental subdivision
2 prior to that date. A builder of a residence for resale shall
3 not be liable for any claims related to radon control standards
4 or requirements after the conveyance of the residence.

5 Sec. 3. Section 136B.1, subsections 2 and 3, Code 2015, are
6 amended to read as follows:

7 2. The department shall establish programs and adopt rules
8 for the certification of persons who test for the presence of
9 radon gas and ~~radon progeny~~ in buildings, the credentialing of
10 persons abating the level of radon in buildings, and standards
11 for radon abatement systems.

12 3. Following the establishment of the certification
13 and credentialing programs by the department, a person who
14 is not certified, as appropriate, shall not test for the
15 presence of radon gas and ~~radon progeny~~, and a person who is
16 not credentialed, as required, shall not perform abatement
17 measures. This section does not apply to a person performing
18 the testing or abatement on a building which the person
19 owns, or to a person performing testing or abatement without
20 compensation.

21 Sec. 4. Section 136B.2, Code 2015, is amended to read as
22 follows:

23 **136B.2 Radon testing information — disclosure.**

24 1. a. A person certified or credentialed pursuant to
25 section 136B.1 shall, within thirty days of the provision
26 of any radon testing services or abatement measures or at
27 the request of the department prior to testing or abatement,
28 disclose to the department the address or location of the
29 building, the name of the owner of the building where the
30 services or measures were or will be provided, and the results
31 of any tests or abatement measures performed. If a person
32 providing a disclosure under this paragraph is compensated
33 by a prospective purchaser, as described in paragraph "b",
34 for performing testing services, the person providing the
35 disclosure shall also disclose to the department the name and

1 address of the prospective purchaser.

2 b. At the request of a prospective purchaser of a nonpublic
3 building, a person certified or credentialed pursuant to
4 section 136B.1 may, with the consent of the owner of the
5 building, perform testing for the presence of radon gas on the
6 building. A person performing testing under this paragraph
7 shall, within thirty days of performance, disclose the
8 results of the testing to the prospective purchaser. A person
9 performing testing under this paragraph shall also disclose the
10 results of testing to the owner of the nonpublic building, but
11 shall only provide such a disclosure upon the explicit request
12 of the owner of the building.

13 ~~b.~~ c. A person shall not disclose to any other person,
14 except to the department, the address or owner of a nonpublic
15 building that the person tested for the presence of radon gas
16 and radon progeny, unless the owner of the building waives,
17 in writing, this right of confidentiality. Any test results
18 disclosed shall be results of a test performed within the five
19 years prior to the date of the disclosure.

20 2. a. Notwithstanding the requirements of this section,
21 disclosure to any person of the results of a test performed
22 on a nonpublic building for the presence of radon gas and
23 ~~radon progeny~~ is not required if the results do not exceed the
24 currently established United States environmental protection
25 agency action guidelines.

26 b. A person who tests a nonpublic building which the person
27 owns is not required to disclose to any person the results of
28 a test for the presence of radon gas ~~or progeny~~ if the test is
29 performed by the person who owns the nonpublic building.

30 Sec. 5. Section 136B.3, Code 2015, is amended to read as
31 follows:

32 **136B.3 Testing and reporting of radon level.**

33 The department or its duly authorized agents shall from time
34 to time perform inspections and testing of the premises of a
35 property to determine the level at which it is contaminated

1 with radon gas ~~or radon progeny~~ as a spot-check of the
 2 validity of measurements or the adequacy of abatement measures
 3 performed by persons certified or credentialed under section
 4 136B.1. Following testing the department shall provide the
 5 owner of the property and, if applicable, the prospective
 6 purchaser described in section 136B.2, subsection 1, paragraph
 7 "b", with a written report of its results including the
 8 concentration of radon gas ~~or radon progeny~~ contamination
 9 present, an interpretation of the results, and recommendation
 10 of appropriate action. However, the department shall not
 11 provide a written report to the owner of the property if the
 12 testing performed by a person certified or credentialed under
 13 section 136B.1 was conducted pursuant to section 136B.2,
 14 subsection 1, paragraph "b", unless the owner requests that the
 15 department provide the owner with a written report. A person
 16 certified or credentialed under section 136B.1 shall also be
 17 advised of the department's results, discrepancies revealed by
 18 the spot-check, actions required of the person, and actions
 19 the department intends to take with respect to the person's
 20 continued certification or credentialing.

21 Sec. 6. Section 136B.4, Code 2015, is amended to read as
 22 follows:

23 **136B.4 Fees — rules.**

24 1. The department shall establish ~~a fee schedule to~~
 25 ~~defray the costs of~~ and collect fees for the certification
 26 and credentialing programs established pursuant to section
 27 136B.1 and the testing conducted and the written reports
 28 provided pursuant to section 136B.3. Fees collected pursuant
 29 to this section shall be retained by the department and shall
 30 be considered repayment receipts as defined in section 8.2.
 31 Moneys collected from such fees shall be deposited in the radon
 32 education fund created in section 136B.7.

33 2. The department shall adopt rules, pursuant to chapter
 34 17A, to implement this chapter.

35 Sec. 7. NEW SECTION. **136B.7 Radon education fund.**

1 1. A radon education fund is created in the state treasury
2 to be administered by the department of public health. The
3 fund shall consist of all moneys deposited into the fund
4 pursuant to section 136B.4.

5 2. Moneys in the fund shall be used by the department
6 for educational purposes to promote awareness of and testing
7 for radon and for carrying out the duties of the department
8 pursuant to this chapter, including but not limited to the
9 addition of full-time equivalent positions for program services
10 and investigations.

11 3. Notwithstanding section 12C.7, subsection 2, interest or
12 earnings on moneys in the fund shall be credited to the fund.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill requires that the building code commissioner,
17 with the approval of the building code advisory council, adopt
18 requirements and standards for radon control in new residential
19 construction. The bill provides that the standards shall
20 supersede and replace any minimum radon control requirements
21 and standards for new residential construction adopted by
22 governmental subdivisions in Iowa. The bill requires that the
23 requirements and standards be mandatory for all new residential
24 construction beginning on or after January 1, 2017, and
25 requires builders of residences for resale to install a passive
26 radon mitigation system in such a residence.

27 Any person who fails to comply with an order to remedy
28 any condition in violation of the adopted requirements and
29 standards within 30 days after service or within the time
30 fixed for compliance, whichever is longer, shall be guilty of
31 a simple misdemeanor pursuant to Code section 103A.21. Any
32 owner, builder, architect, tenant, contractor, subcontractor,
33 construction superintendent or their agents, or any other
34 person taking part or assisting in the construction or use
35 of any building or structure who knowingly violates such

1 requirements and standards shall also be guilty of a simple
2 misdemeanor. A simple misdemeanor is punishable by confinement
3 for no more than 30 days or a fine of at least \$65 but not more
4 than \$625 or by both.

5 The bill also provides that a person certified or
6 credentialed pursuant to Code section 136B.1 may, with the
7 consent of the owner of the building, perform testing for the
8 presence of radon gas on a nonpublic building at the request
9 of a prospective purchaser. The bill requires that a person
10 performing such testing disclose the results of the testing
11 to the prospective purchaser within 30 days and disclose the
12 results of testing to the owner of the nonpublic building, but
13 only if the owner of the building has explicitly requested
14 the disclosure. The bill also includes additional provisions
15 related to corresponding disclosure requirements.

16 The bill creates a radon education fund to be administered by
17 the department of public health to be used by the department
18 to provide radon program education. The bill provides that
19 certain fees collected by the department be deposited into this
20 fund.